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EXAMINER

FASTOVSKY, LEONID M

ART UNIT PAPER NUMBER

3742

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/626,227

Applicant(s)

IRVIN, GEORGE

Examiner

Leonid M Fastovsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/15/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 18-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claims, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/15/04.
2. Applicant's election with traverse of claims 1-17 in the reply filed on 6/15/04 is acknowledged. The traversal is on the ground(s) that they belong to the same class. This is not found persuasive because groups I and II each have different modes of operation such as a completely enclosed garment in group I and a partially enclosed garment in group II. On the other hand, restriction of claim 20 has been withdrawn. In addition, Applicant's argument regarding reclassification are appreciated and will be addressed accordingly in the future.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

3. The drawings are objected to because grommet 132, top 142, snap 142, flap 144 and top 144 are not shown in the drawings. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement

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sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The abstract of the disclosure is objected to because it contains extraneous words such as "invention". Correction is required. See MPEP § 608.01(b).
5. The disclosure is objected to because of the following informalities: top (Page 11, line 7) and snap (Page 12, line 3) have the same number 142, as well top (Page 11, line 16) and flap 144 (page12, line 4).

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 1- 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Browder (4,035,606).

Browder teaches a temperature controlled environment comprising a garment 18 for covering a wearer's head and body, at least one heating non-asphyxiating means 15, the garment completely encloses the heating means, and the garment at least partially encloses the means for seating 10.

8. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by Cilkadaroglu (WO2004022886).

Cilkadaroglu teaches a blind comprising a floor, at least one shell overgarment 10, chairs 8, and a heating system being non-asphyxiating. The word "hunting" is for intended use, and a prior art has a capability to so perform (See MPEP 2114 and Ex parte Masham, 2 USPQ2d 1647 (1987)).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-6,8,10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilkadaroglu in view of Browder.

Cilkadaroglu teaches a heated system having a base surrounded by four walls and inherently secured around a stationary object, zipper 12, sleeves 14 and a chair 8.

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However, he does not teach a heat portion. Browder teaches substantially the claimed invention having a garment comprising a head portion, a torso portion, arms portion (Fig. 4), one zipper-entry 26 frontally disposed, the torso portion has at least one opening for hand insertion. It would have been obvious to one having ordinary skill in the art to modify Cilkadaroglu's invention to include the head portion of the garment to keep head warm as taught by Browder (col. 2, lines 25-40).

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Browder in view of Eckes (5,826,273).

Browder teaches substantially the claimed invention, but does not teach a catalytic heater. Eckes teaches that a thermal packet 24 is a catalytic heater (col. 4, lines 49-59). It would have been obvious to one having ordinary skill in the art to modify Browder's invention to include a catalytic heater to provide a several hours of continuous heat as taught by Eckes (col. 4, lines 49-59).

12. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilkadaroglu in view of Browder and further in view of Dodson (2003/0057018).

Cilkadaroglu in view of Browder teaches substantially the claimed invention, but does not teach a support cable and a collapsible chair. Dodson teaches a support cable 24 and a collapsible chair 12c. It would have been obvious to one having ordinary skill in the art to modify the invention of Cilkadaroglu in view of Browder to include a support cable secure the person and a collapsible chair to that it can be moved from its upright position as taught by Dodson (page 2, [22],[23]).

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13. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilkadaroglu in view of Browder and further in view of Bull (5,611,082).

Cilkadaroglu in view of Browder teaches substantially the claimed invention, but does not teach a back wall zipper and a snap flap. Bull teaches a garment having reclosable openings –snaps 77 and fasteners in the back (col. 4, lines 55-60). It would have been obvious to one having ordinary skill in the art to modify the invention of Cilkadaroglu in view of Browder to include reclosable openings-snaps and fasteners in order to hold the foot enclosing portion well above the ground as taught by Bull (col. 4, lines 55-60).

14. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Browder in view of Williams (4,723,371).

Browder teaches substantially the claimed invention, but does not teach a securing grommet. Williams teaches a hunting blind having secured grommets 71. It would have been obvious to one having ordinary skill in the art to modify Browder's invention to include securing grommets to secure the base at each corner as taught by Williams (col. 6, lines 10-20).

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Browder in view of Dodson.

Browder teaches substantially the claimed invention, but does not teach means for tethering. Dodson teaches a tether 34 and tether connecting arrangement 30. It would have been obvious to one having ordinary skill in the art to modify Browder's invention to include a tether with a tether connecting arrangement to secure the person as taught by Dodson (page 2, [23]).

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**Conclusion**

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6101631 (harness for hunters), 4896655 (under-blanket heater), 3734682 (catalytic heater), 6302094 (heating system), 4637074 (protective garment).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 703-306-5482. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leonid M Fastovsky  
Examiner  
Art Unit 3742

lmf